

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM:** 12.3  
(ID # 21110)

**MEETING DATE:**  
Tuesday, February 28, 2023

**FROM :** DEPARTMENT OF WASTE RESOURCES:

**SUBJECT:** DEPARTMENT OF WASTE RESOURCES: Ratify and Approve Amendment No. 5 to the Legal Services Agreement with Murphy & Evertz, LLP for Legal Representation for the Lamb Canyon Preserve Land Acquisition; District 5. [\$861,500 Total Cost, \$369,500 Total Amendment Cost - Waste Resources Enterprise Funds 100%]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify and Approve Amendment No. 5 to the Legal Services Agreement with Murphy & Evertz, LLP for legal representation for the Lamb Canyon Preserve Land Acquisition to extend the term of the agreement for an additional year through December 31, 2024, increase the total compensation from \$465,000 to \$861,500 and authorize the Chair of the Board to sign the Amendment on behalf of the County; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved as to form by County Counsel, to sign amendments that exercise the options of the agreement including modifications of the statement of work that stay within the intent of the agreement; and sign amendments to the compensation provisions that do not exceed the sum total of ten percent (10%) of the total maximum amount of the agreement.

**ACTION:Policy**

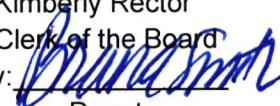
  
Hans Keinkamp, General Manager - Chief Engineer 2/14/2023

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Spiegel, seconded by Supervisor Gutierrez and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, and Gutierrez  
Nays: None  
Absent: Perez  
Date: February 28, 2023  
xc: Waste

Kimberly Rector  
Clerk of the Board  
By:   
Deputy

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<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 198,250	\$ 198,250	\$ 861,500	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> 100% Department of Waste Resources Enterprise Funds			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 22/23-23/24	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On March 20, 2018, the Board of Supervisors adopted Resolution No. 2018-039, Authorizing the Resolution of Necessity for the Lamb Canyon Landfill (LCL) Expansion Project, as well as funding for the acquisition of two contiguous parcels (Preserve), measuring approximately 70 acres along the northerly boundary of the landfill property, through an eminent domain process (Minute Order 9.1).

Due to the complex and unique legal issues for this land acquisition project, and based on County Counsel’s recommendation, outside legal services were obtained. On May 18, 2018, a Legal Services Agreement (Agreement) between the County and Murphy & Evertz, LLP, in an amount of \$50,000, was prepared and processed through Central Purchasing. Additional funds were needed due to the lengthy procedures that are unique to this case, such as the need to obtain relief from bankruptcy stay prior to filing eminent domain in State court. Therefore, on November 20, 2018, Amendment No. 1 to Agreement was processed to increase the total compensation from \$50,000 to \$100,000 annually under the Purchasing Agent’s authority.

On February 27, 2019, the Superior Court of the State of California granted the County’s motion for prejudgment possession of the Preserve property.

On March 13, 2019, the Preserve representative, Scott Krentel, and the bankruptcy trustee challenged the County’s “right to take” the property; moreover, Mr. Scott Krentel filed a writ with the court of appeal asking the court to reserve the court ruling.

On June 25, 2019, the Board of Supervisors approved Amendment No. 2 to the Agreement extending the term to December 31, 2020 and increasing the total not to exceed amount of compensation to \$465,000 due to various bankruptcy matters, “right to take” challenge, and unique procedural issues being raised by Mr. Krentel and the bankruptcy trustee (Minute Order 12.1).

On January 26, 2021, the Board of Supervisors approved Amendment No. 3 to the Agreement extending the term to December 31, 2021 due to the COVID-19 pandemic, court closures, and unique procedural issues continuing to be raised by Mr. Krentel and the bankruptcy trustee (Minute Order 12.3).

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On October 5, 2021, a bench trial ruling dismissed many of the right-to-take challenges raised by Mr. Krentel regarding the County's need and size of the land acquisition. Value of the land acquisition remains as a challenge to the eminent domain process and may be litigated in a jury trial currently scheduled for March 24, 2023.

On August 2, 2022, the Board of Supervisors approved Amendment No. 4 to the Agreement extending the term to December 31, 2023 to allow time for mediation and expert witness preparation for possible valuation jury trial (Minute Order 12.1).

Amendment No. 5 proposes extending the agreement term to December 31, 2024 and increasing the total contract amount to \$861,500. The additional \$396,500 in funding is needed to conduct final mediation conferences, prepare final statutory offer, perform depositions, witness preparation, and land value litigation during the upcoming jury trial scheduled for March 24, 2023. In addition, Amendment No. 5 includes an adjustment to the Agreement's legal service hourly rates and is the first requested increase since the Agreement was executed in 2018. The litigation process remains ongoing and is expected to extend to late 2023.

**Prev. Agn. Ref.:** M.O. 12.1 of 8/2/22  
M.O. 12.3 of 1/26/21  
M.O. 12.1 of 6/25/19  
M.O. 12.2 of 2/6/18  
M.O. 9.1 of 3/20/18

**California Environmental Quality Act (CEQA) Findings**

On February 6, 2018, the Board of Supervisors adopted a Mitigated Negative Declaration (MND) and Mitigated Monitoring Program (MMP) for the Land Acquisition and Site Improvement Project at the Lamb Canyon Landfill based on the findings incorporated in Environmental Assessments (EA) No. 2017-01, concluding that with mitigation, the Project would not cause significant impacts. As such, a Notice of Determination (NOD) was filed, and the statute of limitations has expired.

The item only involves the extension of the Agreement term for continued assistance with the legal issues for the land acquisition project, previously assessed in the above-mentioned environmental document. Therefore, all environmental impacts have been previously evaluated and nothing further is required for the purposes of CEQA.

**Impact on Residents and Businesses**

The 70 acres of land represents the "Head Canyon" for the next planned landfill expansion at LCL, and without this acquisition, the future expansion at this site will be limited due to surface drainage issues; hence, the corresponding disposal capacity will be significantly reduced. Therefore, the acquisition of this land will help the Department continue to provide uninterrupted

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disposal services to County residents and is also necessary to promote and protect the safety, health, and wealth of County residents and property.

**Additional Fiscal Information**

All costs associated with this land acquisition project, including legal services, are fully funded by the Department of Waste Resources Enterprise Funds and in the Department of Waste Resources budget. No net County costs will be incurred as a result of this contract increase and extension to the term of the Agreement.

**Contract History and Price Reasonableness**

The hourly rate increase from \$340 to \$445 per hour for legal services has been deemed acceptable and reasonable by the Department and County Counsel based on current market rates. The previous rate of \$340.00 per hour for legal services was significantly below the average rates for counsel of comparable experience and expertise. This is the first rate request made by Murphy & Evertz, LLP to the County since entering into an agreement with Transportation and Land Management Agency on March 8, 2012.

**ATTACHMENT A. AMENDMENT NO. 5 TO THE LEGAL SERVICES AGREEMENT WITH MURPHY & EVERTZ, LLP**

  
Suzanna Hackley, Assistant Director of Purchasing and Fleet Service

2/14/2023

  
Jason Farin, Principal Management Analyst 2/22/2023

COUNTY OF RIVERSIDE  
AMENDMENT NO. 5 TO THE LEGAL SERVICES AGREEMENT  
WITH  
MURPHY & EVERTZ, LLP.

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Contract Term:	May 18, 2018 through December 31, 2023
Contract Term Extended To:	December 31, 2024
Effective Date of Amendment:	January 5, 2023
Maximum Contract Amount:	\$465,000.00
Amended Contract Amount:	\$861,500.00
Amended Contract ID:	WMARC-96149-001-10/19

This Amendment No. 5 to the Legal Services Agreement for the Lamb Canyon Landfill Preserve Land Acquisition (Contract ID No. WMARC-96149-001-10/19) is entered into by and between the County of Riverside, a political subdivision of the State of California, on behalf of its Department of Waste Resources (“COUNTY”), and MURPHY & EVERTZ, LLP, a California Limited Liability Partnership (“ATTORNEY”), effective January 5, 2023. COUNTY and ATTORNEY are collectively referred to herein as the “Parties”, and individually as the “Party.”

**RECITALS**

WHEREAS, COUNTY and ATTORNEY entered into that certain Legal Services Agreement for the Lamb Canyon Landfill Preserve Land Acquisition for a contract term of May 18, 2018 through December 31, 2019. (the “Agreement”); and

WHEREAS, the Parties have since amended the Agreement four times as follows:

- a. **Amendment No. 1** effective September 30, 2018, added reference to Contract ID No. WMARC-96149-001-10/19, and increased total compensation to \$100,000 annually;
- b. **Amendment No. 2** effective April 1, 2019, extended the period of performance through December 31, 2020, and increased the total maximum compensation to \$465,000;
- c. **Amendment No. 3** effective January 1, 2021, extended the period of performance through December 31, 2021;
- d. **Amendment No. 4** effective January 1, 2022, extended the period of performance through December 31, 2023; and

WHEREAS, the Parties now desire to enter into an amendment to increase the total compensation and extend the period of performance of the Agreement through December 31, 2024.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The first sentence of Section 1, TERM OF AGREEMENT is hereby deleted in its entirety and replaced with the following: “This Agreement shall commence on May 18, 2018, and continue until December 31, 2024, or completion of the last work assignment, whichever occurs first, unless sooner terminated.”

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COUNTY OF RIVERSIDE  
AMENDMENT NO. 5 TO THE LEGAL SERVICES AGREEMENT  
WITH  
MURPHY & EVERTZ, LLP.


3. Section 6, COMPENSATION, is amended by increasing the total amount of compensation paid to the ATTORNEY under this agreement from \$465,000 to \$861,500 and by incorporating the following updated hourly rates:

<u>Partner/Associate</u>	<u>Hourly Rates</u>
Senior Partner	\$445.00
Junior Partner	\$410.00
All Associates	\$410.00
Paralegals	\$210.00

4. All other terms and conditions of the Agreement not modified herein shall remain unchanged.
5. The "Effective Date" of this Amendment No. 5 shall be January 5, 2023.
6. This Amendment No. 5, previous Amendments No. 1 through 4, and the Agreement contain the entire understanding of the Parties. There are no other oral or written representations, understandings, ancillary covenants, undertakings, or agreements that are not contained or expressly referred to within the aforementioned documents.
7. The Parties agree to execute such other documents and to take such other actions as may be necessary to further the purpose of this Amendment No. 5 and the Agreement.


**IN WITNESS WHEREOF**, the Parties hereto have caused their duly authorized representatives to execute this Amendment No. 5.

**COUNTY OF RIVERSIDE**, a political subdivision of the State of California

By:   
Kevin Jefferies, Chair  
Board of Supervisors

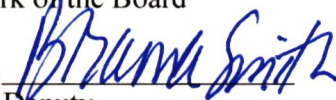
Dated: 2/28/23

**ATTORNEY**, Murphy & Evertz, LLP, a California Limited Liability Partnership

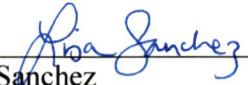
By:   
Douglas J. Evertz  
Partner

Dated: 2/9/23

**ATTEST:**  
Kimberly Rector  
Clerk of the Board

By:   
Deputy

**APPROVED AS TO FORM**  
**MINH C. TRAN**  
**COUNTY COUNSEL**

By:   
Lisa Sanchez  
Deputy County Counsel  
Dated: 2/14/2022